[XXXVth YEAR.] THE [No. 1730.]

MARYLAND GAZETTE.

FRIDAY, MARCH 10, 1780.

For the MARYLAND GAZETTE.

THERE are those who are of opinion, that the gentleman who personates a Senator, is not so much disposed to excite mirth as to establish *paradoxes*. They do not think possible that he, himself can believe what he says, yet, they do not know but that he may be willing to persuade others. He has heard of the patient schoolmen, who have talked of substantial forms that could subsist when the matter was gone; or of Bishop Berkley in modern times, who, in laying the foundation of his immaterial system, insisted that the whole earth was but a complication of ideas. Imitating these, he may have attempted to become famous, and has advanced things the most contrary to opinion, and common sense, in order that his ingenuity may be the more illustrious, in rendering them plausible. For my part, I had been inclined to believe the whole of the nature of a *farce*: nevertheless, I will yield to others, and considering his performance as a string of *paradoxical* positions, shall select some for the entertainment of the curious.

1. The justice of a measure depends on a knowledge of the proper objects of it.

2. It is contrary to the law and practice of civilized nations, the bill of rights of this state, and the principles of the common law, to confiscate the property of British subjects.

3. Though a nation is to be considered as a moral person, yet some of its members may be inoffending, so as not to be answerable for the damages and expences of a war unjustly waged.

4. No confiscation of British property, *as such*[a], has taken place in any of these states.

5. Our courts of justice are to determine who are British subjects.

6. Absentees are triable in our courts of law.

7. All born in these states, before the declaration of independence, are British subjects; hence it follows, that in the same family may be two sorts of subjects; the son a subject of the states, and the father a subject of England[b], or, what is more incredible, the father a subject of both[c].

8. The father may inherit to an estate in Britain, but the son cannot inherit[d].

The above theorems are either found in the words of the senator, or deduced from them, and to all who are capable of thinking, must have the air of burlesque, or paradox.

The second publication, which we now undertake to examine, contains things equally extravagant. We shall cull out some of these as they lye scattered in the work, and present them naked to the reader.

1. It is equally probable, that the value of British property, confiscated and applied, may be levied by taxes on the people, and restitution made to Britain, as that remaining in its present state, it may again be possessed by the original (for it will not do to say present) owners[e].

2. *Timidity* (which is another name for cowardice) may be commendable in public counsel[f].

[a] *These words*, as futh, *have some strange and occult meaning, which it would be difficult to interpret.*

[b] *That is, the king of England has a life-estate in his subjects here: but the remainder, viz. the property, will go to the new commonwealths; for having held the colonies originally in fee, a particular estate by the revolution is carved out of the greater.*

[c] *That is, a Jack-a-both sides, between the several countries.*

[d] *Being but of the half-blood; for the son is the subject of one government, while the father is the subject of two.*

[e] *Yet it would seem to men of common apprehension, that the decisive spirit of our constitution, in confiscating and applying, would discourage the enemy from all thoughts of a restitution.*

[f] *As a counterpart to "the sentiments of the judicious Roman," it may be worth while to remark a sentiment of Hume, who speaking of the parliament who confiscated the property of the adherents of Charles I. says, "this method of proceeding, tho less politic than magnanimous, the parliament preserved*

3. *Gratitude* may be found with the British court, and she may stipulate for a restitution of the property of her adherents[g].

4. France and Spain may also stipulate to this effect[h].

5. A part of Canada may be ceded[i] commercial advantages may be granted[k], or a sum of money may be stipulated to be paid[l], as a compensation for those devastations which have been committed, *contrary to the rules of war*[m].

6. The not exercising the right of confiscating British debts, may be a reason for not confiscating lands, and other property.

7. If this property is confiscated and sold, speculators and engrossers may be the only purchasers[n].

8. War may be carried on without money[o].

9. "The back lands, belonging to the king of Great-Britain, as representative of the nation, may be confiscated by the law of nations." Though from the nature of the thing, the unoffending members of the nation must bear their proportion of the loss; and yet, according to the reasoning of the Senator, the property of these ought not to to be confiscated.

10. Our possession of the back lands held by the native Indians who have warred against us, will depend on our being able to distinguish between the "criminal and unoffending" members of the several tribes.

11. The Indians are "aliens," but, whether they are so, or not, is, according to the Senator, a point triable in our courts of justice; at any rate it must be tried in those courts, whether they are "*criminal* or unoffending members[p]."

12. "Supposing the back lands to belong either to the king of Great-Britain, or to the *nation through the whole course of the war*, equally indulgent to their friends, *and* rigorous to their enemies."

[g] *She will not be able to transfer the soil to her own island. It must therefore still remain a part of the dominion of the states; yet Britain will insist to stock this soil with subjects, whom it is her interest to see under the necessity of repairing to some of her colonies, Canada, Nova-Scotia, or the Floridas, where they may still add to the wealth and numbers of her empire.*

[h] *By a guarantee of these states, no British subject can possess a foot of land here. Will France and Spain stipulate contrary to the articles of the alliance?*

[i] *It is without doubt extremely probable that she will cede a part of Canada rather than give up the property of her adherents in these states; though in the one case she will lose both subjects and dominion, while in the other, having already lost dominion, she will lose only subjects.*

[k] *We want no commercial advantages from that island.*

[l] *Will she pay it? Has she paid the king of Prussia 300,000, the remainder of a subsidy for the last war? Has she paid the Dutch the money borrowed on the credit of her funds? Can she pay that part of the national debt due to her own subjects, now that she is every day in danger of a bankruptcy, and which according to Hume, and every other judicious man, must, "soon or late, inevitably happen?"*

[m] *This phraseology is truly remarkable. It is not an indemnification for the expences of an unjust war, but for some excesses in the manner of conducting it. Even tories would allow that it has been carried on in a savage manner, but that it was originally unjust is another point.*

[n] *Speculators and engrossers are the scare-crows of the day. It will be well if a man can enter into holy martrimony by and by, without an apprehension that speculators and engrossers may get to bed to his wife.*

[o] *It is certain, that in the present state of society and mode of carrying on war, it is impossible; and this might be illustrated beyond a doubt were it necessary. But if it could be carried on, it would be with the utmost distress, and at the utmost hazard. Our virtue may be great, but we ought to be careful not to lay heavier burthens on it than it may be able to bear.*

[p] *The Indians, in this case, even the "unoffending members" of them, poor fellows! must be under the necessity of paying so many beaver-skins to see lawyers, that they might as well give up their lands at once, and retire to new hunting grounds.*

tive Indians collectively, or individually, the United States would acquire a just title to these lands by the right of conquest, &c. and upon the principles of the common law[q]."

13. The legislature, (which is the supreme authority of the state) has no right to say who are its subjects, as it would be contrary to an article of the bill of rights, which is, "the legislative, executive and judicial powers, of government, ought to be for ever separate and distinct from each other[r]."

14 The questions of the delegates, relative to an article in the message of the senate, "are as little to the purpose as the song of Chevy Chase[s]."

The above positions, drawn out from among the reasonings by which they are obfuscated, are evidently paradoxical. The gentleman has discovered much ingenuity in supporting them; and if he has not succeeded, it is owing to the nature of the undertaking, not to a want of capacity. Indeed he has said the best things that could be said on the subject. It is a task too arduous for any man to prove, that two is not two, or that four is less than four. The highest abilities will, in vain, stretch at it; for still it will remain beyond the reach of art.

Rousseau, on a question proposed by the French academy, set out to prove something paradoxical which I do not well recollect, relative to the population of the earth. Mandeville, in his fable of the bees, affirmed, "that private vices are public benefits." Hobbes, in his Leviathan, affected to be singular in his ideas. David Hume, in his essays, has laid it down, that "broad shoulders are moral virtues." All these geniuses, relying on their wits, have asserted strange things: yet they have not convinced any one. No matter, for all they had in view was to be thought capable of thinking out of the common track: the world admitted this, and they were satisfied.

These specimens of ingenuity are good as exercitations of the fancy; but on grave subjects are not so well admitted. In the mouths of grave persons especially they are out of character. They may suit well enough an Oxford or St. Omer's scholar, just come from his studies; but the misfortune is, *the young gentleman* will have it that he is a *Senator*; though we all know that there is not one of that body who could descend to such playful gambols of the mind, on a question where the state is really interested. The taste of the young gentleman, as, indeed, too often happens, has been vitiated by reading sophistical authors. He seems to be taught to believe, that it is the first thing in the world to be ingenious. I could wish he had some grave person by his side that could put into his head good books[t]. His stile is very well for a youth, as I take him to be, and his language in most places, not inelegant. Nevertheless it might not be amiss for him now and then to read over his *syntax*; a man cannot be too careful of correctness in his earlier compositions. I do not make any reprehension of his grammer, or choice of words, or construction of sentence, because I am willing to encourage him. He may one day be of service to the state, when he gets his head right, and may employ his pen to advantage on questions of the first importance.

[q] *On the principles of the common law, lands may be forfeited to the crown of whom they are held. Has the king of England, or the native* Indians, *held land of these states, so that on the principles of the common law, they could be forfeited?*

[r] *It must be obvious at first view, that the bill of rights contains the rights of subjects, not the rights of those who are not subjects. Prove first that men are subjects, and then you may talk of a violation of a bill of rights with regard to them.*

[s] *Though the Senator, from the oddity of his positions, is diverting, yet it might still farther have enlivened the performance, if he had given us now and then, a stanza from that excellent ballad, which would have been as congruous to the strain of his reasoning as the quotation from Blackstone.*

[t] *I perceive the gentleman reads Machiavel, which is by no means advisable as that author has digested the principles of tyranny to a system; and his book is not proper for the seasoning of a young mind.*

The gent'eman defends the meſſage of the ſenate againſt the ſtrictures of the delegates, and is of opinion there may be ſome ſpecies of Britiſh property which the ſenate may not have been unwilling to confiſcate. "Property acquired by *criminal* ſubjects of Great-Britain may be confiſcated." Whether the negative of that honourable body reſpects certain ſpecies of property only, is not material. If the gentleman abandons poſts which they thought proper to defend, and can explain things, ſo that with good humour they can give up gradually, until the whole ſhall be gained for the ſtate, and the bill paſſed the next ſeſſion of aſſembly, it will be deſirable. It is of ſmall conſequence what the ſenate have ſaid; the point is what they will ſay. It is a falſe ſenſe of honour to continue wrong becauſe we have been wrong. I entertain the moſt reſpectful ſentiments of that body, and I have not the leaſt doubt but that upon full conſideration, they will judge it proper to yield to the wiſhes of their countrymen, and paſs the bill in queſtion.

The political and literary ſtrictures of the gentleman, on the meſſage of the delegates, are pleaſant in their way, and may do very well as a lucubration. It is not impoſſible that theſe honeſt countrymen may ſometimes have failed in point of language; but take the whole as a piece of ſolid ſentiment and reaſoning, and there will be found few things ſince the writings of the firſt congreſs, that have done equal honour to our country. It has been read in this town[u], and I am told it is read in the neighbouring ſtates, with admiration. For my own part, I have read it over and think it unexceptionable. The noble whig ſpirit that it breathes, will reſcue us from the imputation that virtue has declined amongſt us. It will be preſerved amongſt the firſt writings which the controverſy has produced.

PUBLICOLA.

Baltimore-Town, March 2.

[u] *Even many of thoſe who ſigned a remonſtrance againſt confiſcation, have been convinced by it, and are now anxious for the paſſing of the bill. I am informed the delegates from this town will have inſtructions accordingly.*

For the MARYLAND GAZETTE.

IF all readers were judicious, diſcerning, and well intentioned, it would be unneceſſary to caution them againſt the inſidious arts of the Plebean, or to inform them, that he has imputed conſequences to the doctrine laid down in Calvin's caſe, with which it is not juſtly chargeable. His publications contain ſentiments which the Senator diſavows and reprobates; he will not therefore honour the Plebean with his confidence; thoſe ſentiments, the artifice uſed in appealing to the paſſions, never good adviſers, rather than to the underſtanding of the people, and the probability of his being cloſely connected, and in combination with the delegate, render the Plebean unworthy of truſt and confidence.

A SENATOR.

To the PUBLIC.

I HAVE peruſed with great attention the three publications of the Senator. He alleges, that the houſe of delegates originated the bill for ſeizing and confiſcating Britiſh property on this principle, "that by the declaration of independence *all* Britiſh ſubjects became *aliens* to this ſtate, and, on that ground, principally reſted the propriety and defence of their conduct." He ventures to pronounce, that the delegates were miſtaken in this matter, which he conceives to be a point of law, triable in our courts of law, and with which the legiſlature could have nothing to do, unleſs they aſſume the judicial power. In his firſt number he propoſed to examine the juſtice and legality of confiſcating Britiſh property. He aſſerted, that it was contrary to juſtice and the law of nations to confiſcate private Britiſh property, and that it was not juſtifiable to confiſcate the property of the innocent ſubjects of Great-Britain. The far greater part of his firſt number is employed to prove, "that all Britiſh ſubjects, born before the declaration of independence, are not aliens in this ſtate, but may inherit lands within it, or ſue in its courts of juſtice, as the natural-born ſubjects of the ſtate," and he grounds his opinion on the deciſion of the judges in Calvin's caſe. It ſhall be the ſubject of this paper to ſhew, that he is egregiouſly miſtaken in his opinion, that his law authority is inapplicable to the caſe, and that the principles he has laid down, and the inferences he has drawn, are improper, inconclu-ive, and incompatible with our independence.

I ſhall endeavour to prove, that all Britiſh ſubjects are aliens, and if I ſucceed, as he reſts his oppoſition to the meaſure principally on the ground that they are not aliens, I hope he will with candour retract his opinion.

It is conſidered by the Senator as difficult to draw a line between the ſubjects of the old, and the ſubjects of the new government, that is, to aſcertain who are Britiſh ſubjects; and yet, according to his reaſoning, we are all of us Britiſh ſubjects. We muſt ſtill bow the knee to deſpotiſm, and bend the neck to ſlavery. But ſuppoſing, for argument ſake, if the Senator will give me leave, that we are not all Britiſh ſubjects, let us conſider who are under that denomination. What perſon is a Britiſh ſubject, is not a *natural* but a *civil* queſtion, and conſequently, as the Senator admits, may be determined by the will of the ſupreme authority.

Before the preſent revolution, the inhabitants of theſe ſtates, as well as thoſe of the other parts of the Britiſh dominions, were ſubjects to the king of Great-Britain. When by a violation of that compact towards the inhabitants of theſe ſtates, upon which their allegiance depended, they became entitled to withdraw their allegiance, they had a freedom of choice, either to make uſe of this right and join in forming and eſtabliſhing new governments, or ſtill to conſider themſelves ſubjects of the Britiſh government. All thoſe, who in conſequence of this freedom of choice, elected to make uſe of this right, and accordingly eſtabliſhed new governments, or aſſented to them when eſtabliſhed, ceaſed to be the ſubjects of Great-Britain, and became ſubjects of ſome one of the United States. But thoſe who did not make this election, but have withdrawn from theſe ſtates, ſtill remain Britiſh ſubjects.

If we turn to authorities on this ſubject, we ſhall find, that every one who is *not born within the allegiance* of a ſtate, is an *alien* to that ſtate. With reſpect to this ſtate, which *had no exiſtence* before the year 1776, *no perſon* hath been *born within its allegiance*, except thoſe born therein ſince that period.

From the above obſervations it will be perceived, that *aliens* and *ſubjects* are terms oppoſed to each other. For whoever is an alien to a ſtate is not a ſubject, and whoever is not a ſubject is an alien, and whoever is *not an alien* is a ſubject. If therefore Britiſh ſubjects are *not aliens* to this ſtate, *they are ſubjects of it*, and therefore to *ſave* their property they muſt *hazard* their *necks*, for if they are ſubjects of this ſtate, and fall into our hands, they may be proceeded againſt as traitors, nor can all the refinements of ſophiſtry ſave them from this dilemma.

The Senator confeſſes his knowledge of the law to be ſmall, yet ventures to pronounce the houſe of delegates were miſtaken in their principle, "that by the declaration of independence, all Britiſh ſubjects became aliens in this ſtate, and by proſecution of the war, enemies, and therefore incapable of holding property within the ſtate." Let us examine his reaſons, and ſee whether we may not conclude, that a little knowledge of the law, like a little learning, is a dangerous thing. He had heard of Calvin's caſe, and turning to it, found, that while the duchies of Normandy, &c. were under the actual obedience of the kings of England, perſons born within thoſe duchies could inherit within the realm of England, as well as Engliſhmen, "*becauſe they were under one allegiance, due to one ſovereign.*"

To apply this to our caſe—While the thirteen colonies (now ſtates) *were under the actual obedience* of the king of Great-Britain, perſons born within theſe colonies might inherit in Great-Britain, and vice verſa; from whence I ſhould imagine, that any one but the Senator, would have deduced the following inference; as theſe colonies (now ſtates) by their declaration of independence abjured and renounced any allegiance or obedience to the king of Great-Britain, therefore all perſons born in any of theſe ſtates, either before or after that event, unleſs they have elected to remain Britiſh ſubjects by departing hence, cannot inherit in Great-Britain; and that in like manner, every perſon born in Great-Britain, before or ſince the declaration of independence, unleſs he has joined us in the war, or been in the ſervice of ſome one of the United States, cannot inherit here, and, becauſe they are not under one, but ſeveral allegiances; *one* under the allegiance due to the *king of Great-Britain, the other* under the allegiance due to *this ſtate.*

The duchies of Normandy, &c. were under *the actual obedience* of the kings of England for very near three hundred years; while they were under *that actual ſubjection*, the inhabitants of thoſe duchies, and of England, were fellow-ſubjects, and under the ſame allegiance, and inheritable to each other, in the ſame manner as the inhabitants of the thirteen colonies and of Great-Britain, antecedent to the preſent revolution. I have examined the authorities, cited in Calvin's caſe, relative to the perſons born in thoſe duchies, and find that they were *all* determined during that period; but when they became ſeparated from England, and fell under the dominion of France, was it ever *after that* time adjudged, that one born in Normandy, &c. during their ſubjection to England, and who *continued* to live in thoſe duchies *as a ſubject of France, was inheritable in England, and not an alien?* Until the Senator can ſhew an adjudication of this nature, he might as well have told us (what we all know) that while Maryland was under the actual obedience of the king of Great-Britain, perſons born in Maryland, could inherit in Great-Britain.

But the Senator has alſo introduced a reſolution of the judges in Calvin's caſe, to ſupport the poſition he endeavours to eſtabliſh, to wit, "that all Britiſh ſubjects, born *before the declaration of independence*, are not aliens to this ſtate, but can ſtill inherit lands within it, as its natural-born ſubjects, notwithſtanding the declaration of independence, and our thereby becoming a ſeparate and independent nation." In order to determine how far that reſolution is conſiſtent with law, and whether it will warrant his deductions, we muſt obſerve, that England and Scotland, before their union, were *ſeparate* and *independent kingdoms*. Upon the death of queen Elizabeth, the Engliſh crown deſcended to James, king of Scotland; by this event the *two kingdoms* became ſubjected to the *ſame* monarch, and the inhabitants of *each* bound in allegiance to the *ſame individual perſon*; in all other reſpects they remained, as they were before, *ſeparate* and *co-exiſting* kingdoms; thoſe of the Scots ſubjects, born before the Engliſh crown deſcended to James, continued to be aliens in England, becauſe they *were not born* under *the allegiance* of the king of England, and the Engliſh ſubjects, born before that event, continued to be aliens in Scotland, becauſe *they* were *not born* under the *allegiance* of the king of *Scotland*, but as to the poſt-nati (thoſe who were born after the union of the crowns in the perſon of James) it was determined, that a child born in England was not an alien in Scotland, and that a child born in Scotland was not an alien in England, becauſe, as England and Scotland were at that time *two different kingdoms, both then actually co-exiſting*, and James the ſovereign of *both*, he *who was born* under *the allegiance* of the king of *England*, was *alſo* born *under the allegiance* of the king of *Scotland*, and he who was born under the allegiance of the king of Scotland, was alſo born under the allegiance of the king of England, and therefore, that the *plaintiff* and *defendant* in that cauſe, having been *both born under the ſame allegiance*, could not be aliens to each other, they *both at that time alſo continuing to be* under the *ſame allegiance*, England and Scotland being then united under the ſame ſovereign.

This was the only point in Calvin's caſe which the judges *judicially* determined; it is not neceſſary at preſent to controvert this deciſion, tho' I am of opinion it may *well* be *queſtioned*, and that I could eaſily prove it was founded on principles long ſince exploded. An objection was made by the council, that "if thoſe born in Scotland were natural-born ſubjects, and not aliens, in England, great inconveniences and confuſion would follow, if thoſe kingdoms ſhould again become ſubject to *different* ſovereigns." This objection the judges affected to think ſo very trifling, that they declared it was "leſs than a dream of a ſhadow, or a ſhadow of a dream;" however, as trifling as it was, they were complaiſant enough to give it an anſwer in the words which the Senator hath quoted, "that all thoſe who were born under one natural obedience, while the *realms*" (that is the two kingdoms of England and Scotland, both actually exiſting at the time of ſuch birth) "were united under one ſovereign, ſhould remain natural-born ſubjects, and not aliens, for that naturalization due and veſted by birthright, cannot, by any ſeparation of the crowns afterwards, be taken away, nor he that was by judgment of law a natural ſubject at the time of his birth, become an alien by matter ex poſt facto." This reſolution not being given upon any point then actually before them, was a *mere extra-judicial opinion*, and not a *legal deciſion*, and conſequently *of no authority*; in the courſe of their argumentation they hazarded an opinion upon a mere ſpeculative queſtion, which probably might never happen. If it was the meaning of the judges, that ſhould the crowns be ſeparated, ſuch of the Scots poſt-nati as *were reſident* in England *at the time of that event*, and *continued* to reſide there, ſhould be conſidered as natural-born Engliſh ſubjects, and that ſuch of the Engliſh poſt nati, who *at the time* of the ſeparation were *reſiding* in Scotland, and *continued* to reſide *there*, ſhould be conſidered as natural-born Scots ſubjects, ſuch opinion might *perhaps* be conſiſtent with law, but then it will not interfere with the principle

have endeavoured to eſtabliſh, nor will it anſwer the Senator's purpoſe, or warrant his concluſions. On the contrary, if the judges intended to declare, that ſhould the crowns become ſeparate, the Engliſh poſt-nati, who might continue to reſide in England, and pay allegiance to the Engliſh king, ſhould notwithſtanding be conſidered as ſubjects of the king of Scotland; and that the Scots poſt-nati, who might continue to reſide in Scotland, and pay allegiance to the Scottiſh king, ſhould notwithſtanding be conſidered as Engliſh ſubjects, I will not heſitate one moment to pronounce, that their opinion was as trifling as they could poſſibly think the objection, that it is "leſs than a dream of a ſhadow, or a ſhadow of a dream," and that it is not warranted by common law or common ſenſe.

If all of us born before the declaration of independence were natural born ſubjects of the Britiſh king, if the *Senator*'s principles are *juſt*, and the *opinion* of the *judges*, in the extent the *Senator* would give it, is *conſiſtent with law*, if we, by no matter ex poſt facto, can put off our allegiance, ceaſe to be ſubjects of Great-Britain, and become aliens to that nation, *we* may in that caſe inherit in that kingdon, and ſue in their courts of juſtice, but I cannot diſcover of what ſervice this will be, either to the Senator, or thoſe in whoſe cauſe he is an advocate, for the queſtion at preſent is not whether *we* can inherit in Great-Britain, but whether Britiſh ſubjects can inherit here, and if the *only reaſon* why *we may* inherit in Great Britain is, that *we* were *originally born* the *ſubjects* of the *Britiſh king*, I apprehend it will ſollow, as a neceſſary conſequent, that all *not born ſubjects* of this ſtate cannot inherit in the ſtate, but are, and muſt ever remain, aliens to it, unleſs by matter ex poſt facto they can become ſubjects thereof, and aliens to Great-Britain. And that all perſons born in the thirteen colonies, or any other part of the Britiſh dominions, before the formation of our preſent governments, are aliens to this ſtate, Calvin's caſe is a full authority, for the judges ſay there, "that every one who is born *without the allegiance of a ſtate* is an *alien*;" and again they declare, that "every man is either an alien born or a ſubject born," Now no man in his right ſenſes will aſſert, that thoſe who were born before this ſtate had an exiſtence, were *born under its allegiance*, or *were natural-born ſubjects thereof*; it therefore follows, that *all ſuch* perſons muſt be aliens to this ſtate, unleſs by ſome act of their own they have become ſubjects. And in Calvin's caſe the judges alſo determined, that all the ante-nati in Scotland (thoſe born before the union) were aliens in England for the ſame reaſon, becauſe they were not born under the allegiance of the king of England, as I have before obſerved.

I therefore conclude, upon a full examination of the matter, that however ſucceſsful the Senator may think himſelf, in having proved that we are not aliens to Great-Britain, and if we are not aliens we muſt be ſubjects, (for which proof I believe few whigs will be diſpoſed to thank him,) yet it remains a truth eſtabliſhed, even upon his own principles, and ſupported and confirmed by his own law authorities, that all Britiſh ſubjects are aliens to this ſtate.

AN INDEPENDENT WHIG.

Baltimore, Feb. 29, 1780.

To the PRINTERS of the MARYLAND GAZETTE.

SINCE my publication, in your Gazette, of Feb. 18, laſt, I obſerve two others under the ſame ſignature, in your papers of the 25th of February, and the 3d of this month. I am not acquainted with either of the gentlemen, who have aſſumed my ſignature. My intentions were to recommend harmony and union between the two branches of our legiſlature, and to remove any prejudices too haſtily entertained of the ſenate, and to wipe off any unfavourable impreſſions which the public might have taken up (from the reſolves of the houſe of delegates) againſt thoſe members of the ſenate who voted againſt the confiſcation bill. I did not pretend to be acquainted with the laws or practice of nations; I thought we ought to conduct ourſelves on the principles of juſtice and equity; and agreeable to my ſentiments of juſtice, I coincided in opinion with the Senator, that we ought not to confiſcate indiſcriminately the property of Britiſh ſubjects; becauſe we ſhould thereby injure many *innocent* people. In this ſentiment, I was ſupported by the authority of the Senator, "that the property of *unoffending* Britiſh ſubjects is not liable, by the law of nations, to ſeizure and confiſcation." I did not pretend to give an opinion how far the confiſcation of the property of the *innocent* ſubjects of Great-Britain was juſtified by the law of nations. I was ignorant of that law, having never read Grotius, Rutherforth, or Vattel, I relied on the aſſertion of the Senator, and only ventured to give my opinion, that the diſtates of juſtice and reaſon forbade an indiſcriminate confiſcation.

The Senator did not enumerate the perſons who would ſuffer, if the property of Britiſh ſubjects was confiſcated without any exception; but as he affirmed that "it would be unjuſt and ungenerous to confiſcate the property of a great number of individuals in England, who had *publicly* expreſſed their diſapprobation and *abhorrence* of the war, *and of the meaſures* which led to it," I caſt about in my mind to diſcover whom he meant. The proprietary, Mr. Harford, was an infant, and therefore muſt be deemed innocent as to us; if his eſtate was the great object of the law, and was not liable to confiſcation, the advocates for the ſeizure could not think the property of others worth their notice. I mentioned the names of the merchants, Hanbury, Ruſſell, and Glaſsford, becauſe I thought they were alſo unoffending ſubjects of Great-Britain.—On enquiry, I have reaſon to doubt of Mr. Glaſsford's, friendſhip, or ſervices, to this country. I have a favourable opinion of Mr. Ruſſell; his lady is a native of this ſtate, amiable in her character, and may deſerve favour and compaſſion. I named colonel Sharpe, and ſaid what I really believed to be true, and do not fear contradiction; his return to live among us muſt obviate every objection. The Senator or myſelf cannot poſſibly have any intereſt in ſaving his property. I am told I was miſtaken as to governor Eden; if I was, I am ſure I would not recommend him as an exception, but I wiſh due enquiry to be made, before his eſtate is confiſcated. I never had in contemplation to exempt from confiſcation, the property of Mr. Buchanan, or of the proprietors of the Principio and Kingſbury iron-works. I never heard that Mr. Buchanan was our friend, and ſome of the owners of thoſe iron-works live at Birmingham, and are our bitter enemies, and even contributed to raiſe a regiment to reduce us to ſlavery. I readily conſent (and I would anſwer alſo for the Senator) to confiſcate their eſtates, becauſe they are *inimical* ſubjects of Great-Britain. As to our abſentees, I only contended, that ſome of them ought to be conſidered as ſubjects, and if they had committed treaſon againſt this ſtate, they ought to be tried and puniſhed as traitors. As to thoſe who retired or withdrew from the ſtate, if they have never actually borne arms againſt us, I thought, with the Senator, that it would be unjuſt to forfeit their property. I ſee no difference whether they went away before or after the declaration of independence. I grounded my opinion on the aſſertion of the Senator, "that there was no law which declared their departure unlawful." I had not the leaſt idea or wiſh to ſave from confiſcation the eſtates of Robert Alexander, Eſq; the reverend Mr. Jonathan Boucher, the reverend Mr. Henry Addiſon, Mr. Henry Riddle, Lloyd Dulany, Eſq; and his two nephews, and Mr. Stewart, (I ſuppoſe Anthony) enumerated by the laſt Plebean. I really am (as I profeſs) a whig, and thoſe perſonages never entered into my head, nor I dare ſay that of the Senator, as objects of favour or compaſſion.

The Senator alleged, that there was a difference between ſeizing the goods of an enemy, found on the high ſeas, or in their country, and their property, in our power, within the ſtate. He alſo aſſerted, that there was a difference between confiſcating the land, and perſonal property, poſſeſſed by Britiſh ſubjects, in this ſtate. I was of the ſame opinion, and as he omitted to give reaſons for his opinion, I gave ſuch as occured to me, and, I flatter myſelf, ſatisfactory to the public.

I was of opinion, that no great ſum would accrue to the public from the confiſcation of Britiſh property. If I was miſtaken, I wiſh to be let right, and will readily retract, when convinced. I have a ſtrong reſentment againſt ſpeculators as any man, and therefore would do nothing to promote their intereſt; though I would by no means have it believed, that I would not benefit my country, from an apprehenſion that they might have art to turn it to their advantage.

I never thought myſelf capable of diſcuſſing the queſtion, whether all Britiſh ſubjects became aliens to this ſtate, by the declaration of independence; therefore I did not undertake to ſupport the Senator in his denial of it. I am not lawyer enough to know any thing of Calvin's caſe, and therefore the gentleman who aſſumed the ſame ſignature with me, in your paper of the 25th, ought to have the merit, if any, of maintaining the poſition, that all Britiſh ſubjects born before the declaration of independence, are not aliens, but can inherit as our natural-born ſubjects. I would only remark, that the Senator alleged, "that both Britiſh and Americans, born before the declaration of independence, were not *aliens*, but could inherit, &c. within the ſeveral counties, as the natural-born ſubjects of both." He did not undertake to aſſert, that the people of this ſtate, born before the declaration of independence, are *new ſubjects* of Great-Britain. This can be only a concluſion drawn, that if we are not aliens to Great-Britain, we are ſtill ſubjects. If this inference be juſt, I wholly diſclaim it, and will never again become a ſubject of that tyrant, whom I have renounced.

I only intended to offer my reaſons in ſupport of the Senator, ſo far only as I attempted in the Gazette of the 18th of February, and as now repeated. I believe the public will think that I did not differ from him in ſentiment, and he may be aſſured I did not mean to miſrepreſent any of his arguments, or opinions, but to ſupport them. I never intended to caſt any aſperſions on any of the members of the houſe of delegates. If the Senator meant to convey any ſuſpicion of the conduct of particular members of that body, by his mention of "*particular circumſtances and particular characters*," it remains with him, and the writer in your laſt Gazette, under my ſignature, to explain or to juſtify. In a word, I am connected with no party, and would not give offence to either of the writers, or any other perſon: I take the liberty once more to ſign myſelf

A PLEBEAN,

Prince-George's county, March 8, 1780.

To the PRINTERS of the MARYLAND GAZETTE.

IT is unbecoming an officer to uſe ungentleman-ly expreſſions, but if I was to give my opinion of the Senator, I ſhould cenſure him heartily. He talks of *timidity on the right ſide*, which is deteſtable on any ſide. I honour a brave fellow even when he fights againſt me, but I deteſt the *coward*, though he profeſſes to be my friend. No man, ſays he, or body of men, need to *bluſh* at being ſtigmatiſed as *timid*: Zounds, becauſe they cannot *bluſh*. They will turn *pale* as a tent-cloth. Who ever heard of a coward bluſhing? I have been in ſeveral battles, and have ſeen ſeveral duels fought, and never ſaw a man bluſh with *fear*, to this hour. The Senator I take to be a d-m-'d ſcary fellow. He talks of *conſequences*; though if we had conſidered conſequences from the firſt, like moderate men, we ſhould never have declared independence; but if I was to conſider what was to come to paſs, I would as ſoon look into an almanack for it as into his writings. France and Spain will not ſuffer us to confiſcate Britiſh property! I would ſee France * and Spain to hell before they ſhould hinder us from doing what is right. Britain will make it a preliminary, that reſtitution be made of it. Let the aſſembly give it to us, and all the devils in hell ſhall not take it from us. The Senator is fearful: Was I of the legiſlative body I would have him caſhiered for his mean ſpiritedneſs. He may do well enough in private life, but I'll be d-m-'d if he is fit to wear a commiſſion in a public ſtation.

A MARYLAND OFFICER.

Montgomery County, Feb. 28, 1780.

* *Not but that I have the moſt perfect devotion to the generoſity of France, and good will to Spain, and do not believe that a thought of the kind will ever enter their minds.*

For the MARYLAND GAZETTE.

NUMBER XXIX.

THE family compact of the branches of the houſe of Bourbon was a circumſtance whereon to ground a charge of ambition againſt France; though, it muſt be evident, that it was the reſult of wiſe and juſt policy for her own preſervation. The contiguity of territory between France and Spain, affording frequent ſubjects of debate; the diſſimilarity of manners, the one poſſeſſing the moſt lively air of addreſs, the other exhibiting the utmoſt gravity of behaviour; what is ſtill more, the hoſtilities of long wars with each other, had formed an oppoſition in the minds of the people, which the cloſeſt ties of affinity, or conſanguinity, in the perſons of the ſovereigns, could not overcome. Not friendſhip ſpringing from the ties of blood, nor the deſigns of ambition, but the vaſt maſs of the Engliſh power preſſing with a mighty weight, bound them together. When this weight ſhall be removed, or leſſened, and the Britiſh power ſhall ceaſe to preſs, theſe two monarchies ſhall return to their native beds, and be ſo far from forming deſigns againſt the liberties of their neighbours, that it will exiſt the principal object of their concern to preſerve peace amongſt themſelves. Conſanguinity in the perſons of the ſovereigns may be favourable to this end; the pleaſing recollection of mutual acts of kindneſs, and that ſoft affection which long fellowſhip in diſtreſs begets, may

long engage them to each other; but the cause of their compact for the purposes of war ceasing, the compact itself will also dissolve and melt away. Europe, whose liberties are saved by the resistance of these powers to the monarchy of England, will have nothing to fear from their negotiations, or their arms, when Britain shall be humbled, and exist no longer the tyrant of the earth.

From the view we have taken of the history of the two last centuries, as far as it relates to France and England, how vain must appear the language of the king of that island to his parliament, Nov. 25, 1779, where he throws out the idea of upholding, and preserving "the liberties of Europe from the restless and encroaching power of the house of Bourbon." Base tyrant! will he not be sensible, will he not acknowledge, that he himself is the source of all the evils that, at the present time, tempest the earth. Let him cease his designs of hostility and subjugation, against those whom God and nature have made free: Let him withdraw his fleets and armies to his own island, and be bound like satan for a thousand years, and we shall have a millennium on the earth. He himself is the fiery dragon of the age, and has kindled more fires than the angel of the bottomless pit could do, was he in his proper shape amongst men.

I have now done with what I mean to say on the subject of the alliance. Many things remain to be said, and I had intended to have taken a general view of the commercial, literary, and other advantages resulting to these states from the connection; but the necessity of attending to my own affairs precludes me from that undertaking. I have to thank the public for that indulgence and candour with which they have heard me, and am conscious of those tender feelings which public favour and indulgence beyond what might be demanded by the merit of the service, naturally inspires.

THE HONEST POLITICIAN.

March 8, 1780.

For the MARYLAND GAZETTE.

THE confiscation of British property is a question in which every man in this state is deeply interested. I had perused with attention the two first publications of the Senator, and the address by a writer, under the signature of A Plebean, in the Gazette of the 18th of February. I entirely agreed with the Senator, and the Plebean, whom I considered as his friend and assistant, as to the injustice of confiscating, indiscriminately, *private* British property within this state. The Sena or adduced his reasons and arguments from the principles of justice and the law of nations, the Plebean, from the rules of equity and universal justice. I thought the Plebean was defective in his support to the Senator, in not examining the grounds on which the position of delegates originated their bill, to wit, "That all British subjects are at this time alien enemies to the state, and, as such, incapable of holding property within it." From some expressions in, and the general purport of his performance, I concluded that he was unacquainted with the law of nations, and the common law of England, and therefore I was induced to believe, that he would not favour the public with any remarks on the question, which appeared to me to be the great point in controversy, and on a true understanding of which a proper decision by the public, can alone take place. If all British subjects became aliens in virtue of the declaration of independence, I admit the conclusion of the delegates, that an alien cannot hold land in this state. I was of opinion, with the Senator, that the law of nations ought not to be adopted as the rule by which to determine the question of alienage. I doubted whether there is any law of nations on the subject. I agreed with the Senator, to take the common law of England as the criterion by which to ascertain what persons ought to be considered as aliens to this state. I endeavoured to examine this question by that law. The Senator bottomed his opinion on the sole authority of Calvin's case. I searched a number of other authorities in the law, and found these principles uncontrovertibly established, that no person born *within* the dominion of the crown of Great-Britain, in other words, within the allegiance of the king of Great-Britain, can be an alien to that nation. That every person born *within* the dominion or allegiance of the king of Great-Britain, is a natural-born subject. That an alien is one born *out* of the dominion or allegiance of the king of Great-Britain, and under the allegiance of some other prince or state. From these axioms I deduced the same inferences, with the Senator, that all persons born *before* the declaration of independence, within any of the colonies (now United States) *then* part of the British dominions, are *not aliens* to Great-Britain. 2. That every person born within this state, *since* the declaration of independence, is an alien to Great Britain, and may be taken as a subject of this state. 3. Every principle or reason, which proved that Americans, born *before* the declaration of independence, are *not aliens* in Great-Britain, but can inherit, or sue to recover lands, in that kingdom, equally evinces, that all British born *before* that event, are *not aliens* in this state, but may inherit, or sue to recover, lands within it. This I hold clearly to be the law of England, and am confident no gentleman of the profession will deny it. I then took into consideration the question, what effect the declaration of independence, our establishing a new form of government, and swearing allegiance to it, could have on the law I had (in my judgment) so well established. In my researches on this head, I could discover no authority but Calvin's case, in any manner to warrant the conclusion of the Senator, "that notwithstanding those events, the dominion of the British empire, our separation from it, and becoming an independent state, all Americans born *before* those events are *not aliens* to Great-Britain, but may inherit, &c. and on the contrary, all British born *before* those events, *not aliens* to this state, but may inherit, &c." The event supposed in Calvin's case, was a separation of the kingdoms by the descent of the crown, to different persons; and I cannot discover with the Senator, any difference whether the separation happens from the event suggested in Calvin's case, "the descent of the crown to different persons," or, as in our case, the division of the British empire by the war, and our declaration of independence, and setting up and establishing a new state.

The Senator did not assert, nor do I admit, that if the Americans born before the declaration of independence are *not aliens*, that of consequence they are *subjects* of Great Britain. I was apprehensive our adversaries would endeavour to involve us in this inference from Calvin's case, and therefore I suggested the idea (that if only subjects of Great-Britain can inherit lands there) that the Americans born *before* the declaration of independence are not *absolutely subjects*, but *quasi subjects* *, i. e. to inherit lands, but not to yield any allegiance.

My design in my publication (in the Gazette of the 25th of February) was to express my approbation of the opposition to the confiscation of British property, on the principles of justice. The arguments drawn from that principle by the Senator, and the Plebean, were striking to me. I thought the conduct of the British parliament towards the town of Boston, for the destruction of the tea, a similar case, and therefore mentioned it. I proposed chiefly to confine my remarks to the question of law, i. e. who are aliens to this state, and in support of the Senator, if I think it necessary, still continue to offer my sentiments to the public on that question. Another writer in your last paper, under the signature of a Plebean, has entered into the discussion of several subjects, which I never proposed to examine. I shall, as I first intended, confine myself to the question of alienage, and shall not hold myself bound to support the gentleman who has been pleased to make use of the same signature with myself.

* *In the celebrated case of* Ashby *versus* White, *which was an action brought by a voter, against the constable of Aylesbury, for refusing to receive his vote, one of the judges was of opinion, that the action did not lie against the constable, because he acted as a judge. Powys, one of the judges, was of opinion, that he was not properly and strictly a judge, but quasi a judge; he had a power to admit or to refuse a vote, his determination was not final and conclusive, but subject to the revision of the house of commons. The other judges (being of opinion that he must be a judge or not a judge) exploded this distinction. But I submit to the gentlemen of the profession, whether the reasons urged by judge Powys, though insufficient to make the constable* quasi *a judge, will not well warrant my distinction of* quasi *subjects, in the present case; indeed some distinction appears to me indispensably necessary. For the laws of England vest but subjects can inherit lands there; ergo, to entitle Americans born before the declaration of independence, to inherit there, they must still be considered as subjects. To admit them to be subjects of Great-Britain, without some distinction, would be to affirm, that they owed allegiance, which is incompatible with our independence, and our future allegiance to this state. No distinction appears to me so technical as that of* quasi *subjects.*

The Senator's last number was published with mine, in the gazette of the 25th of February last. So far from supporting the Senator in his proposition to compel the public debtors to the loan-office, who have taken up their bonds, to give *new* obligations for the balances, after deducting from the original debt the payments, according to the depreciation at the respective times of payment, I differ from him in opinion. I always was a friend to the tender law. Our circumstances at the time it was made, rendered it absolutely necessary. At that crisis of our affairs it was certainly of infinite service. I question if the states had not in general made the congress emissions a legal tender, whether it would have purchased any provisions or other necessaries for our army. I confess it has not answered all the good intentions of the authors of it. Some creditors have greatly suffered, but even some of these have contributed to depreciate the currency. I wish some mode (if possible) could be devised to do universal justice. I fear great discontent and confusion would arise from the Senator's scheme. Every one must see, if public debtors should be compelled to make up to the public the depreciation, *private* debtors must do the same. I do not wonder that creditors for great sums should be clamorous, but they should reflect, that it has been a natural consequence of the war; that they are better able to bear the loss than poor creditors; they should consider that they bear the greater burthens of the war, fighting and militia duty. Rich creditors find substitutes in the field, and pay their fines for their non-attendance on the militia. I believe, if the tender law should be *now* repealed, more hardships, distress, and even injustice, would flow from it, than can happen from its continuance.

If the point of law I have endeavoured to establish should be questioned, I shall again trouble the public, otherwise not. In that case, for distinction sake, I shall beg leave to make use of the signature of *The Second Plebean*; I hope I shall not be disturbed in the possession of it. For the present I subscribe myself

March 8, 1780. A PLEBEAN.

HAGUE, *November* 25.

LETTERS from Amsterdam bring an account that Paul Jones, in consequence of the injunctions of the States General to sail with the first fair wind, is actually sailed, but that the famous captain Cunningham, who escaped out of the prison in England, and was to have gone with Jones, has altered his intentions and is gone to Paris.

BALTIMORE, *March* 7.

A gentleman who arrived on Sunday evening from Charles-Town, South-Carolina, which he left the 10th ult. informs us, that on the 11th in the vicinity of that capital, he heard the alarm guns fired announcing the approach of the long-expected British enemy, and was afterwards assured by a gentleman in a few hours from Charles-Town, that the enemy had entered North-Edisto inlet, about 40 miles from that place with 45 or 50 small transports, and that a body of troops, supposed to be commanded by Sir Henry Clinton, or Earl Cornwallis, had since been landed on Wockmalaw Island, opposite Stono-Ferry, about 24 miles from the capital aforementioned—That the further progress of the enemy had been check'd by the seasonable appearance of a galley, or gallies, which had been dispatched by general Lincoln, from Charles-Town, to interrupt that important passage—The same gentleman adds, that the garrison of Charles-Town, appeared determined to defend that place to the last extremity; for which purpose they were making all possible preparations by land and water; and that gentlemen were ready to man their formidable lines at a minute's warning.

March 4, 1780.

STOLEN out of the stable of the subscriber at his quarter near the city of Annapolis, on the night of the twentieth day of February last, a chestnut sorrel MARE, about thirteen hands three inches high, eight or nine years old this spring, flaxen mane and tail, one hind foot white, branded on the near buttock C B, paces and gallops, and carries her head rather low. Any person who will give information, or procure the said mare so that the owner may have her again, shall receive one hundred dollars, and if brought home one hundred and fifty dollars, and any person securing the thief so he may be brought to justice, shall receive a reward of one hundred dollars, paid by

WILLIAM WATSON.

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